



Docket No.: 0179-0247PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Benjamin BLANKERTZ et al.

Application No.: 10/549,701

Confirmation No.: N/A

Filed: September 19, 2005

Art Unit: N/A

For: METHOD FOR INITIATING OCCUPANT-
ASSISTED MEASURES INSIDE A VEHICLE

Examiner: Not Yet Assigned

L E T T E R

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on September 19, 2005, attached hereto is an English translation of the International Preliminary Examination Report (Form PCT/IPEA/409) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: May 2, 2006

Respectfully submitted,

By James T. Eller, Jr.
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Attachment(s)

A	N	K	S	G	W	D	A	H	P	J	M	E	T	W	J	H	K	B
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09.MRZ 2006

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NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II)
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis.3(c) and 72.2)

PATENT COOPERATION TREATY

PCT/EP2004/003012

From the INTERNATIONAL BUREAU

To:

HILLERINGMANN, Jochen
Bahnhofsvorplatz 1 (Deichmannhaus am Dom)
50667 Köln
ALLEMAGNE

Date of mailing (day/month/year)
02 March 2006 (02.03.2006)

Applicant's or agent's file reference
040748woHigo

IMPORTANT NOTIFICATION

International application No.
PCT/EP2004/003012

International filing date (day/month/year)
22 March 2004 (22.03.2004)

Applicant
FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V. et al.

1. Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2. Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GH, GM, HR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Ellen Moyse

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 89 75

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference 040748woHigo	FOR FURTHER ACTION	
	See item 4 below	
International application No. PCT/EP2004/003012	International filing date (<i>day/month/year</i>) 22 March 2004 (22.03.2004)	Priority date (<i>day/month/year</i>) 20 March 2003 (20.03.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V.		

<ol style="list-style-type: none"> 1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a). 2. This REPORT consists of a total of 6 sheets, including this cover sheet. In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead. 																
<ol style="list-style-type: none"> 3. This report contains indications relating to the following items: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"><input checked="" type="checkbox"/></td> <td style="width: 85%;">Box No. I Basis of the report</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. II Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII Certain observations on the international application</td> </tr> </table> 	<input checked="" type="checkbox"/>	Box No. I Basis of the report	<input checked="" type="checkbox"/>	Box No. II Priority	<input type="checkbox"/>	Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI Certain documents cited	<input type="checkbox"/>	Box No. VII Certain defects in the international application	<input type="checkbox"/>	Box No. VIII Certain observations on the international application
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<input type="checkbox"/>	Box No. VII Certain defects in the international application															
<input type="checkbox"/>	Box No. VIII Certain observations on the international application															
<ol style="list-style-type: none"> 4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis .2). 																

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>	<p>Date of issuance of this report 21 February 2006 (21.02.2006)</p> <p>Authorized officer Ellen Moyse</p> <p>Telephone No. +41 22 338 89 75</p>
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PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:

PCT

Translation

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)
Applicant's or agent's file reference 040748woHigo		FOR FURTHER ACTION See paragraph 2 below
International application No. PCT/EP2004/003012	International filing date (day/month/year) 22.03.2004	Priority date (day/month/year) 20.03.2003
International Patent Classification (IPC) or both national classification and IPC		
<p>Applicant FRAUNHOFER-GESELLSCHAFT ZUR FÖRDERUNG DER ANGEWANDTEN FORSCHUNG E.V.</p>		

1. This opinion contains indications relating to the following items:

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | Box No. I Basis of the opinion |
| <input checked="" type="checkbox"/> | Box No. II Priority |
| <input type="checkbox"/> | Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input type="checkbox"/> | Box No. VI Certain documents cited |
| <input type="checkbox"/> | Box No. VII Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII Certain observations on the international application |

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/EP	Authorized officer
Facsimile No.	Telephone No.

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003012

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rule 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material
 - in written format
 - in computer readable form
 - c. time of filing/furnishing
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003012

Box No. II Priority

1. The following document has not yet been furnished:

- copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
 translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/003012

Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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1. Statement

Novelty (N)	Claims <u>6-12</u>	YES
	Claims <u>1-5</u>	NO
Inventive step (IS)	Claims <u>7-8, 10</u>	YES
	Claims <u>1-6, 9, 11</u>	NO
Industrial applicability (IA)	Claims <u>1-12</u>	YES
	Claims _____	NO

2. Citations and explanations:

1. The following documents are referred to in this report:

- D1: US-6349231 (T. Musha) 19-02-2002
D2: US-5311877 (A. Kishi) 17-05-1994
D3: DE-19801009 (Daimler Chrysler) 22-04-1999
D4: DE-19702748 (Kirchlechner-Schwarz M.) 18-09-1997

2. Claim 1 does not fulfill the requirements of PCT Article 6 because the subject matter for which protection is sought is not clearly defined. In the claim, the applicant attempts to define the subject matter through the result to be achieved; in doing so, however, only the problem to be solved is indicated, without offering the necessary technical features for achieving this result. The applicant must explain how the brain wave signals are measured.

Claims 5-9 likewise do not fulfill the requirements of PCT Article 6 because the subject matter of for which protection is sought consists of so many and/or combinations.

3. The present application does not fulfill the requirements of PCT Article 33(1) because the subject matter of claims 1-5 is not novel within the meaning of PCT Article 33(2).

3.1 For independent claim 1, D1 describes a procedure for activating occupant support devices in a vehicle (column 7, lines 12-26) in which brain wave signals of the driver are technically measured (column 2, lines 8-23) and the intention of the driver is assessed by means of the brain wave signals using real time processing (drawing 2) and, based on the intention of the driver, measures for conveying the instantaneous status of the vehicle are activated in advance in a vehicle status adapted to the intention of the driver. (column 7, lines 12-20)

3.2 For dependent claims 2-3, D1 describes a procedure for measuring the brain wave signals of a driver (column 2, lines 8-12)

3.3 For dependent claim 4, D1 describes a procedure for carrying out real time processing of the measured signals by methods of signal processing that make it possible to evaluate the measured signals without protracted training (column 6, lines 12-65)

3.4 For dependent claim 5, D1 describes a procedure for the determination of coherence masses (based on the base load between input signals (column 4, lines 24-67).

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/EP2004/003012

Box No. V

Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

4. The present application does not fulfill the requirements of PCT Article 33(1) because the subject matter of claims 6, 9, 11 is not based on an inventive step within the meaning of PCT Article 33(3).

The subject matter of claim 6 is therefore differentiated from D1 by the fact that a filtering is carried out with the aid of a smoothing procedure.

This feature, however, has already been used for the same purpose in a similar procedure; compare D2, especially column 6, lines 30-47. If a person skilled in the art wants to achieve the same purpose using a procedure according to D1, it is possible for him, without further effort, to use the features with corresponding effect with the subject matter of D1 as well. In this way, he would succeed, without inventive activity, in performing a procedure according to claim 6.

The argument above also applies analogously to claims 9 and 11.

For claim 9, D3 describes a procedure for the optimization of the vehicle's sensitivity to braking (column 3, line 62 – column 4, line 11).

For claim 11, D4 describes a procedure with the use and integration of brain wave signals in a continuous monitoring of alertness (column 1, lines 42-50).

The person skilled in the art could combine the features from D3 and D4 named above with the features from D1 without inventive step in order to achieve the teaching of claims 6, 9 and 11. For this reason, dependent claims 6, 9 and 11 do not fulfill the requirements of PCT Article 33(1).